

State of California
BOARD OF EQUALIZATION
SALES AND USE TAX REGULATIONS

REGULATION 1591.2. WHEELCHAIRS, CRUTCHES, CANES, AND WALKERS.

Reference: Sections 6006, 6369, and 6369.2, Revenue and Taxation Code.

(a) DEFINITIONS.

(1) **PHYSICIAN.** For purposes of this regulation, “physician” means and includes any person holding a valid and unrevoked physician’s and surgeon’s certificate or certificate to practice medicine and surgery, issued by the Medical Board of California, the Osteopathic Medical Board of California, or the California Board of Podiatric Medicine. Physician, as defined, includes doctors of medicines (MD), doctors of osteopathy (DO), and doctors of podiatric medicine (DPM).

(2) **PRESCRIPTION.** “Prescription” means an oral, written, or electronic transmission order that is issued by a physician, dentist, optometrist, or podiatrist licensed in this state *and* given individually for the person or persons for whom ordered. The order must include all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the conditions for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order.

(3) **HEALTH FACILITY.** “Health Facility” as used herein has the meaning ascribed to the term in section 1250 of the Health and Safety Code, which provides that:

“As used in this chapter ‘health facility’ means any facility, place or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer....”

(b) TAX APPLICATION. Tax does not apply to the sale or use, including leases that are continuing sales and purchases, of wheelchairs; crutches; canes; quad canes; white canes used by the legally blind; walkers; and replacement parts for these devices when sold to an individual for the personal use of that individual as directed by a licensed physician. Electric three-wheel scooters that are similar in both design and function to a conventional electric wheelchair, qualify as a wheelchair for the purposes of Revenue and Taxation Code section 6369.2. When the scooters are sold or leased to an individual for the personal use of that individual as directed by a licensed physician their sale or use qualifies for an exemption from tax.

“Replacement parts” include, but are not limited to, batteries for electric wheelchairs; belts and cushions sold to replace or supplement the basic items originally sold with wheelchairs, lap boards and trays attached to wheelchairs and considered a part of the wheelchair; and rubber tips, wheels, and other such items prescribed for an individual to replace an original component of the device sold. “Replacement parts” do not include items such as mechanical devices that aid the patient in eating or writing unless the items are part of the device itself, or restraints or other such items sold to an individual, but which do not become a part of the wheelchair or other such prescribed device.

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(c) SALES TO HEALTH FACILITIES. Sales, or leases that are continuing sales and purchases, of wheelchairs, crutches, canes, and walkers to hospitals or other health facilities for use by patients while at the facilities are subject to tax. Such sales or leases are not considered sold to an individual for the individual's personal use as directed by a physician. However, when wheelchairs, crutches, canes, and walkers are ordered by a hospital or health facility on behalf of a specific patient, as directed by a physician, the items may be considered to be purchased by an individual for his or her own personal use as required under Revenue and Taxation Code section 6369.2 and, therefore, the sale will qualify for exemption from tax.

(d) SALES TO INSURED PERSONS. The exemption for qualifying retail sales of wheelchairs, crutches, canes, quad canes, white canes used by the legally blind, walkers, and replacement parts for these devices is not affected by the fact that charges to the individual to whom such items are sold, may be paid, in whole or in part, by an insurer. This is so even though a joint billing may be made by the retailer in the name of both the person and the insurer.

History: Promulgated November 18, 1999, effective March 10, 2000.

Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.